July 20, 2001

Ms. Pamela Smith
Assistant General Counsel
Office of the General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2001-3161

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 149667.

The Texas Department of Public Safety (the "department") received a request for a complete accident investigation report for two specific traffic accidents. You inform us that the department is prepared to release most of the requested information. We assume that you have done so. However, with respect to two submitted documents, you claim that portions are excepted from disclosure under sections 552.117 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

One of the submitted documents contains a home address and home telephone number, which you assert are excepted from disclosure under section 552.117(2) of the Government Code. Section 552.117(2) excepts from disclosure information that relates to the home address, home telephone number, or social security number of a peace officer, as well as information that reveals whether the officer has family members.[1] *See* Gov't Code § 552.117(2); Open Records Decision No. 622 (1994). You inform us that the person whose home address and home telephone number appear in the information is a peace officer as defined in article 2.12 of the Code of Criminal Procedure. Based upon your representation and a review of the document, we conclude that the department must withhold from disclosure under section 552.117(2) the address and telephone number, which you have highlighted. *See also* Open Records Decision Nos. 670 (2001) (granting governmental bodies previous determination under section 552.117(2) for certain individuals, including peace officers as defined in article 2.12 of Code of Criminal Procedure), 673 (2001) (defining previous determination).

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[1] Section 552.117(2) applies to a peace officer as defined by article 2.12 of the Code of Criminal Procedure.

In the remaining document, there is a vehicle identification number and license plate number. Section 552.130 provides in relevant part:

> (a)   Information is excepted from [required public disclosure] if the information relates to:
>
>> (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
>>
>> (2) a motor vehicle title or registration issued by an agency of this state[.]

The department must withhold the vehicle identification number and license plate number, which we have marked for your convenience, under section 552.130. *See also* Open Records Letter No. 2001-2047 (2001) (granting department previous determination for certain categories of information subject to section 552.130).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).
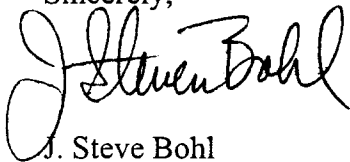
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

J. Steve Bohl
Assistant Attorney General
Open Records Division

JSB/sdk

Ref.:   ID# 149667

Enc.:   Marked documents

c: Mr. David W. Luther, CLI
        P.O. Box 1373
        Waller, Texas 77484
        (w/o enclosures)